

DLD-143

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-1050

IN RE: HECTOR L. HUERTAS,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.N.J. Civ. No. 06-cv-04676)

Submitted Pursuant to Rule 21, Fed. R. App. P.
March 26, 2009

Before: BARRY, AMBRO and SMITH, Circuit Judges

(Opinion filed: April 17, 2009)

OPINION

PER CURIAM

Hector Huertas, proceeding pro se, has filed a petition for a writ of mandamus seeking to compel the United States District Court for the District of New Jersey to decide several motions in his action against the City of Camden, the City of Camden Police Department, Officer Warren Brown, and Juan Andino (the “Defendants”). We will deny the mandamus petition.

Huertas filed a complaint in District Court against the Defendants alleging that

they had prevented him from visiting his mother. Andino, who lives with Huertas's mother, allegedly called the police when Huertas arrived at the house to visit her, and Officer Brown directed Huertas to leave. Huertas sought a temporary restraining order and injunctive relief.

In June 2008, Huertas filed a motion and an amended motion for default judgment against the municipal defendants based on their alleged failure to abide by a court scheduling order and other alleged discovery violations. Huertas also filed a motion for leave to file a second amended motion for default judgment. In November 2008, Huertas wrote the District Court, requesting a ruling on his motions. In January 2009, Huertas filed the present petition for a writ of mandamus, seeking an order compelling the District Court to decide his motions.

Shortly after the filing of Huertas's mandamus petition, the Magistrate Judge dismissed without prejudice Huertas's motion and amended motion for default judgment, and granted Huertas's motion for leave to file a second amended motion for default judgment to the extent that he sought leave to file a second amended motion. In light of the Magistrate Judge's order, Huertas's petition for a writ of mandamus seeking to compel the District Court to rule upon these motions is now moot. Huertas's additional requests that we vacate a scheduled pre-trial conference and stay the trial pending the disposition of his motions are also moot.

Accordingly, we will deny the petition for a writ of mandamus.¹

¹Huertas subsequently filed a second amended motion for default judgment, which the District Court denied. Pre-trial proceedings are continuing.